

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TROY D. BRACKER,

Plaintiff,

v.

PORTFOLIO RECOVERY ASSOCIATES,
L.L.C. AND PRA III, LLC,

Defendants.

No. CV:

NOTICE OF REMOVAL

Defendants Portfolio Recovery Associates, L.L.C. and PRA III, LLC (collectively “Portfolio”), pursuant to 28 U.S.C. §§ 1441(b) and 1446, hereby file its notice of removal stating and alleging as follows:

1. On or about March 1, 2005, Plaintiff Troy D. Bracker (“Bracker”) filed a Complaint in the County Court of Dodge County, Nebraska (“County Court”) against Portfolio.
2. The Complaint was served on Portfolio on or about March 4, 2005.
3. Bracker’s Complaint alleges Portfolio violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.
4. The United States District Court has original jurisdiction of this civil action for the reason that the matter in controversy is founded on a claim or right arising under the Constitution, treaties or laws of the United States, pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441(b).

5. The Notice of Removal is filed within thirty (30) days after the receipt by Portfolio through service of a copy of Bracker's Complaint, which is the initial pleading setting forth the claims for relief upon which this civil action is based pursuant to 28 U.S.C. § 1446(b).

6. Portfolio will promptly give written notice to Bracker of its filing of a Notice of Removal and shall file a copy of the Notice of Removal with the Clerk of the County Court pursuant to 28 U.S.C. § 1446(d).

7. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders filed in the County Court action, including the Complaint and Summons are attached hereto as Exhibit A.

Dated this 30th day of March, 2005.

PORTFOLIO RECOVERY ASSOCIATES,
L.L.C. and PRA III, LLC, Defendants

By: s/ Brian C. Buescher

Brian C. Buescher, Esq. #21920
Kutak Rock LLP
The Omaha Building
1650 Farnam Street
Omaha, NE 68102-2186
(402) 346-6000

CERTIFICATE OF SERVICE

This certifies the undersigned attorney has caused service of the foregoing **NOTICE OF REMOVAL** to be made pursuant to NEB. REV. STAT. § 25-534 (Reissue 1995) by regular mail, to the following attorneys representing parties to this action, on this 30th day of March, 2005:

David C. Mitchell, Esq.
Yost, Schafersman, Lamme, Hillis, Mitchell &
Schulz, P.C.
81 West 5th Street
Fremont, NE 68025

By: s/ Brian C. Buescher
Brian C. Buescher

IN THE COUNTY COURT OF DODGE COUNTY, NEBRASKA

TROY D. BRACKER,

Plaintiff,

v.

PORTFOLIO RECOVERY
ASSOCIATES, L.L.C., a Virginia Limited
Liability Company, and PRA III, LLC,
A Virginia Limited Liability Company,

Defendants.

CASE NO.

COMPLAINT

FILED
FEB 15 2005
DODGE COUNTY NEBRASKA
LILA G. SCHEER
COUNTY COURT CLERK

COMES NOW the Plaintiff and for his cause of action against the Defendants, states and alleges as follows:

1. The Plaintiff is a married individual residing in Fremont, Dodge County, Nebraska.

2. The Defendant, Portfolio Recovery Associates, LLC (hereinafter "Portfolio"), is a limited liability company with its principal place of business located in Norfolk, Virginia. The Defendant, PRA III, LLC (hereinafter "PRA"), is a limited liability company with its principal place of business located in Norfolk, Virginia, and an allegedly wholly owned subsidiary of Defendant, Portfolio Recovery Associates, LLC.

3. On or about November 18, 2003, Defendant Portfolio wrote to Plaintiff alleging he owed \$241.00 on an account originally held by Household Bank SB NA. This letter further alleged that Defendant PRA purchased the account from Household Bank on October 31, 2003.

4. Plaintiff has never contracted with or owed any sum of money to Household Bank on any open account or for any credit extended. In a letter from Plaintiff's attorney to Defendant Portfolio, dated December 2, 2003, Defendant Portfolio was notified that Plaintiff had never contracted with or owed any debt to the alleged original creditor, Household Bank SB NA.

EXHIBIT

A

5. Thereafter, on or about December 26, 2003, Defendant Portfolio indicated it was concluding its investigation and would be purging Plaintiff's account from its files and removing its trade line from Plaintiff's name with the major credit reporting bureaus.

6. Despite Defendants' apparent concession that no balance was owed by Plaintiff to the original creditor, Household Bank SB NA, and therefore conceding nothing is owed to PRA as well, Defendants continue reporting the Household Bank debt to major credit-reporting agencies including, but not necessarily limited to, Trans Union. A report from Trans Union, dated March 25, 2004, indicates a delinquent balance owed to Household Bank SB NA in the amount of \$240.00. No such balance has ever been owed to Household Bank and, therefore, not to PRA.

7. The Defendants presently continue to communicate the above-referenced credit information which is known or which should be known to be false and has further failed to communicate that the debt was and is disputed, all such acts being in violation of the Fair Debt Collection Practices Act (hereafter "The Act") contained at 15 U.S.C. § 1692(e).

8. Each instance of reporting the above-referenced debt to any credit reporting agencies or other persons constitutes a separate and distinct violation of The Act for which the Defendants should be held liable in the amount of \$1,000.00 for each such violation, a total amount which is presently unknown.

9. The Defendants are further liable to the Plaintiff for attorney's fees incurred in this matter pursuant to The Act.

WHEREFORE, the Plaintiff prays for judgment against the Defendants, and each of them, for \$1,000.00 for each separate violation pursuant to the Fair Debt Collection Practices

Act; for reasonable attorney's fees; for costs of this action; and for such other and further relief as is lawful in the premises.

DATED THIS 15 day of February, 2005.

TROY D. BRACKER, Plaintiff

By 

David C. Mitchell, #18133, of
YOST, SCHAFERSMAN, LAMME, HILLIS,
MITCHELL & SCHULZ, P.C.
A Limited Liability Organization
81 West 5th Street
Fremont, NE 68025
(402) 721-6160

ADDITIONAL DISCLOSURES: By this communication Troy D. Bracker is attempting to collect a debt from you and any information obtained will be used for that purpose. This communication is from a debt collector.



43108

Document Number

43108

IN THE COUNTY COURT OF Dodge COUNTY, NEBRASKA
428 No. Broad St.
Fremont NE 68025

Case ID: CI 05 227
Old Case ID:

Troy D Bracker v. Portfolio Recovery Associates, L.L.C

TO: Portfolio Recovery Associates, L

You have been sued by the following plaintiff(s):

Troy D Bracker

Plaintiff's Attorney: David C Mitchell
Address: 81 West 5th
Fremont, NE 68025

Telephone: (402) 721-6160

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties within 30 days of service of the complaint/petition and filed with the office of the clerk of the court within a reasonable time after service. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: MARCH 1, 2005

BY THE COURT:

Lila H. Scher

Clerk




PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Portfolio Recovery Associates, L
c/o Judith Scott, Registered Agent
120 Corporate Boulevard, Suite 100
Norfolk, VA 23502


Method of service: Certified Mail

You are directed to make such service within twenty days after date of issue, and show proof of service as provided by law.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p>	
<p>1. Article Addressed to:</p> <p>PRA III, LLC c/o Judith S. Scott, RA 120 Corporate Blvd, Suite 100 Norfolk VA 23502</p>		<p>B. Received by (Printed Name) _____ C. Date of Delivery <u>3-1-05</u></p>	
<p>2. Article Number (Transfer from service label) <u>7003 3110 0004 2114 4713</u></p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below: _____</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

U.S. Postal Service TM	
CERTIFIED MAILTM RECEIPT	
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For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage <u>.37</u>	3-1-05 Postmark Here
Certified Fee <u>4.05</u>	
Return Receipt Fee (Endorsement Required) _____	
Restricted Delivery Fee (Endorsement Required) _____	
Total Postage & Fees <u>\$ 4.42</u>	
<p>Best To: <u>Port/Blvd Rec. Assoc / c/o Judith Scott</u></p> <p>Street, Apt. No., or PO Box No. <u>120 Corporate Blvd, Suite 100</u></p> <p>City, State, ZIP+4[®] <u>Norfolk VA 23502</u></p> <p>PS Form 3800, June 2002 See Reverse for Instructions</p>	

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CERTIFIED MAILTM RECEIPT	
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For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage <u>.37</u>	3-1-05 Postmark Here
Certified Fee <u>4.05</u>	
Return Receipt Fee (Endorsement Required) _____	
Restricted Delivery Fee (Endorsement Required) _____	
Total Postage & Fees <u>\$ 4.42</u>	
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<p>Article Addressed to:</p> <p>Artistic Recovery Associates c/o Judith S. Scott, RA 120 Corporate Blvd, Suite 100 Norfolk VA 23502</p>		<p>B. Received by (Printed Name) _____ C. Date of Delivery <u>3-1-05</u></p>	
<p>Article Number (Transfer from service label) <u>7003 3110 0004 2114 4706</u></p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below: _____</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	